

REGULAR MEETING AND PUBLIC HEARING
OF THE FALLS CHURCH PLANNING COMMISSION

15 May 2006
Council Chamber

1. CALL TO ORDER: Chair Rodgers called the meeting to order at 7:48 PM.

2. ROLL CALL:

Members Present:	Ms. Budetti
	Mr. Burnett
	Ms. Fauber
	Mr. Holran
	Ms. Rodgers
	Ms. Sanders

Member Absent:	Mr. Puentes
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Administrative Staff Present:	Ms. Friel, General Manager of Development Services/ Planning Director
	Mr. Fuller, Principal Planner

3. PLANNING COMMISSION REPORTS:

Ms. Rodgers noted that Mr. Holran had inquired at the Commission's last meeting whether the Commission's regularly scheduled 3 July meeting would be held. She asked if a decision had been made. Ms. Friel advised that a decision had not been made, but that she would report on this issue at the Commission's next meeting.

4. RECEIPT OF PETITIONS: None.

5. PLANNING DIRECTOR'S REPORT/WORKSESSION SCHEDULE:

Ms. Friel noted that the Commission had a busy agenda this evening. She advised that the Commission had expressed its intent to discuss briefly the item related to pipestem lots and then to continue its discussion at a worksession following the meeting. The Commission is scheduled to meet in a joint worksession with the City Council on 30 May to discuss a number of Zoning Ordinance amendments, particularly related to residential zoning districts. Ms. Friel stated that the Commission would consider applications for rezoning and Comprehensive Plan amendments for the City-owned property in the 1100 block of West Broad Street, adjacent to West End Park, and for 110 Great Falls Street at its 5 June 2006 meeting.

MOTION: Mr. Holran moved that the Planning Commission proceed with the three items listed under New Business on its agenda prior to consideration of Old Business.

Discussion:

Chair Rodgers noted that the Commission planned to discuss the Old Business item, which was related to pipestem lots, at its worksession immediately following the meeting. She advised that a member of the public desired to address the Commission on this item and suggested that the agenda items be considered in order.

Mr. Holran withdrew his motion.

6. OLD BUSINESS:

A. ORDINANCE T06-05, AN ORDINANCE TO AMEND CHAPTER 38, ZONING, OF THE CODE OF THE CITY OF FALLS CHURCH, VIRGINIA, BY REPEALING A PORTION OF SECTION 38-2, DEFINITIONS, “LOT, PIPESTEM” AND REPEALING SECTIONS 38-16(e)(1)(a), 38-16(2)(a), 38-16(3)(a), 38-17(e)(1)(a), and 38-17(3)(a)

Ms. Friel advised that the Commission had acted on this legislation at its last meeting and recommended to the City Council to deny Ordinance T06-05. The City Council is scheduled to consider this item at its 22 May 2006 meeting, but may hold the public hearing and then defer its action until a later date. The Commission had requested more information in order to provide Council with additional guidance on this issue. She suggested that the Commission discuss various options at its worksession tonight.

MOTION: Mr. Burnett moved, and Ms. Sanders seconded, that the Planning Commission continue this item until its worksession this evening.

Discussion:

Chair Rodgers again noted that the Commission had a speaker slip for this item and opened the item to the public.

Mary Madeline King (507 E. Columbia St.) expressed her thanks to the Planning Commission. She advised that following the Commission’s first public hearing on this item two Commissioners had stated that they had been prepared to support the Ordinance, but had changed their minds after hearing the public’s comments and concerns. Ms. King stated that it was reassuring to know that the public would be heard when speaking to City boards and commissions.

The Chair thanked Ms. King for her comments. Hearing no further response and having received no written comments, the Chair closed the item to the public. Ms. Budetti thanked Ms. King for her nice remarks. She noted that the Planning Commission often receives criticism so it was nice to hear these comments.

The motion passed by voice vote.

7. NEW BUSINESS:

A. **SUBDIVISION SD06-0193, 1017 SPRUCE STREET**

Howard Cook, owner and applicant, was present.

Ms. Friel reported that the property is zoned R-1B, with a minimum lot size of 7,500 square feet. The subdivision proposed is to take four existing parcels and to make two parcels, identified as Lot 1-A and Lot 1-B on the plat submitted. The owner's existing house would remain on the new Lot 1-A, which would contain 13,312 square feet. Lot 1-B would contain 7,500 square feet. Staff review is complete and the plat meets all Code requirements. The Planning Commission is requested to grant preliminary and final approval, contingent upon the Tree Commission's recommendations on the Preliminary Tree Survey that will be provided following its 17 May meeting.

The applicant declined to make a presentation.

The Chair opened the item to the public.

1. Sharon Kelly (1014 Spruce St.) noted that the lot to be created would be triangular in shape and expressed her belief that this would not be a good dynamic for the neighborhood. She advised that a triangular building lot had been permitted at Park Avenue and North West Street, which sticks out like a sore thumb. Ms. Kelly suggested that the new Lot 1-B might not have been measured accurately.

Ms. Kelly expressed her belief that the City was becoming like Roslyn, Ballston, and other very urban areas, instead of the small town in which she was raised. She noted that the activities that city teenagers once enjoyed on weekends were no longer available. Given recent development, it is difficult to find on-street parking in many neighborhoods, a new school had to be built to accommodate a growing population, and taxes have risen substantially even for those who have made no improvements to their property. Ms. Kelly suggested that if the Planning Commission desired to subdivide the lots, then the City should purchase the new Lot 1-B to create a green space to be enjoyed by everyone in the neighborhood.

2. Deborah Chase (1018 Spruce St.) submitted a petition signed by 51 owners of property adjacent to the subject property who are opposed to a new home being built on a small lot in the neighborhood.

3. Joyce Berg (1002 Ellison Sq.) advised that her property is depicted as Lot 2 on the plat submitted and is immediately adjacent to the side yard of the proposed Lot -1B. She recognized the owners's right to subdivide their property, however she desired to express her concerns with tree preservation and stormwater runoff should a new home be built on the new lot proposed.

Ms. Berg expressed her desire that the existing landscape buffer between the Ellison Square townhouse development and the subject property be preserved. She hoped that not only would

the large tulip poplar directly behind her home, but the entire tree buffer be protected and preserved during any future construction on Lot 1-B. Ms. Berg noted that the existing tree canopy would be difficult to replace given the configuration proposed for the new lot. She advised that the plat did not depict a driveway for any future new residence on Lot 1-B and expressed her hope that the driveway would be located on the wider, eastern end of the lot so that two trees in the City right-of-way, as well as other trees at the rear of Lot 1-B would be preserved.

Ms. Berg reported that both Lots 1-A and 1-B slope towards the Ellison Square development. Any significant grading change or tree loss could cause more stormwater runoff into Ellison Square, as well as flood basements. She noted that previous, successful efforts to eliminate flooded basements might be compromised with regrading of the new lot.

Hearing no further response, and having received no written comments, the Chair closed the item to the public.

Commissioners had a number of questions and comments concerning the plat, the size of the permitted building footprint for Lot 1-B, which lots were owned by the applicant, whether the 30-foot rear setback depicted for the building envelope on Lot 1-B met Code requirements, whether the front door of a new house would face Spruce Street, and how far projections on a building may extend beyond a foundation.

Ms. Friel reiterated that the plat submitted meets all Code requirements. Decisions regarding trees to be preserved, lot coverage, and drainage are made when a grading plan is reviewed and approved. She stated that the Planning Commission could defer its decision until the Tree Commission's comments are received. Ms. Friel advised that should a new house be constructed on Lot 1-B, then the Chesapeake Bay Interdisciplinary Review Team (CBIRT) would meet to consider several issues, including stormwater runoff. All adjacent property owners are notified of the CBIRT meeting and have the opportunity to review the information submitted. She stated that the building footprint for Lot 1-B could be calculated and that information provided at the Commission's next meeting. The building envelope shown on subdivision plats always reflects the maximum size footprint allowed, but not all buildings are constructed to the greatest extent permitted. The Planning Commission does not review grading plans, but examines the lines drawn for new lots on subdivision plats.

Ms. Friel reported that Lot L should be shown as connected to existing Lots 1, 2, and 3. This connection could be clarified on a revised plat. She agreed to request the Zoning Administrator to confirm that the setbacks shown on Lot 1-B are correct. The City Code does not specifically require that a front door face the street. She expressed sympathy for neighbors who had a new house built on an adjacent site that was not built with an anticipated orientation. Ms. Friel reported that there is a history of homes being built with differing orientations. She advised that this issue could be added to items to be considered with Zoning Ordinance amendments.

Ms. Friel advised that certain projections, such as porches and decks, must meet setback requirements for the zoning district in which a structure is built. Other projections, such as bay windows, may encroach three feet into a setback. No residential lot may have more than 35%

impervious coverage or more than 25% building coverage. A tree canopy of at least 20% is required on lots that are redeveloped. Ms. Sanders clarified that a residence could have a projection that began six inches above the foundation and extended the full height of the structure.

Ms. Fauber stated that the property owner has a right to subdivide his property, even though an irregular lot would be created. She advised that it was unfortunate that lines representing the lot lines and building envelopes did not clarify what would be built. Ms. Fauber expressed her understanding of the concerns expressed, particularly since there have been a number of bad examples of new construction recently. She encouraged the owner to share design drawings of the new home to be construction with his neighbors. Ms. Fauber expressed support for continuing the item to receive comments from the Tree Commission, but agreed that the subdivision is by right and could be approved tonight.

MOTION: Ms. Fauber moved, and Mr. Burnett seconded, to continue SD06-0193 until 5 June to receive the Tree Commission's comments.

The motion passed on voice vote.

Chair Rodgers noted that the subdivision was by right and, unless the Commission received unusual information in the interim, it should be prepared to approve the application at its next meeting.

B. SUBDIVISION SD06-0196, 407 AND 409 LINCOLN AVENUE

The applicant, Adam Bean of Green Built Homes, was present.

Mr. Fuller reported that the application proposes to reconfigure two large existing lots into three new lots. The subject properties contain a total of 57,358 square feet with frontage on Lincoln Avenue. The plat depicts the creation of Lot 5A (17,344 square feet), Lot 6A (19,465 square feet), and Lot 6B (20,549 square feet). Lots 6A and 6B would be served by a 15-foot wide, 'pipestem', shared driveway. Lot 5A would front on Lincoln Avenue.

The subject sites and adjacent properties are zoned R-1A; single family homes are located on Lincoln Avenue, Shadow Walk, and West Columbia Street. The Washington and Old Dominion (W&OD) Trail is located on the south side of the subject sites.

Staff reviewed the plat and had no comments as the plat meets all subdivision and zoning requirements. The Tree Commission reviewed the Preliminary Tree Survey at its 19 April meeting. The Tree Commission's comments were provided in the staff report. Staff recommends that the Planning Commission grant preliminary and final approval to this subdivision.

Mr. Bean stated that he was a City resident and had built twelve homes in the City over the past four to five years. All of the homes had been built 'green' in an environmentally friendly manner that met US Environmental Protection Agency (EPA) Energy Star requirements. He

reported that he was very cognizant of the need to preserve trees and to build using environmentally sound practices. Mr. Bean advised that the plat submitted meets all requirements and that he looked forward to submitting a grading plan, which met all Code regulations and saved existing trees.

The Chair opened the item to the public.

1. Mark Gross (303 Lincoln Ave.) agreed that the subdivision proposed meets all Code requirements. He expressed his belief that an issue presented with this subdivision is similar to an issue that occurred at another development in the 300 block of Lincoln Avenue. Mr. Gross disagreed with Ms. Friel's comment that the City Codes does not require the front of a house to be oriented towards the street. He stated that the Zoning Code specifically addresses the orientation of houses on a pipestem lot. The City Attorney had agreed that the houses built in the 300-block subdivision development had been built improperly. Mr. Gross noted that the Planning Commission has jurisdiction over the Zoning Code; it is important that the Commission ensure that the Code requirements are enforced. He requested that the Commission's approval of this subdivision include a requirement that the building envelopes indicated on the plat designate the front, rear, and sides of each new structure. It is important to address this issue now rather than after construction commences.

In response to Ms. Sanders's questions, Ms. Friel confirmed that building envelopes are required to be placed on a subdivision plat. She reiterated that there are more than 40 instances of facades not matching the building setbacks marked on the plat, however this is a gray area in the Code. Ms. Friel concurred that neighbors should be able to expect that a side yard will be where the side yard was marked on the plat. Occasionally, a different orientation might make a better presentation. Mr. Gross noted that the Code's pipestem requirements indicate that the setbacks be 'at least the same' as adjacent lots. He again urged that the Commission's approval note that the 15' area labeled as a side yard should be the side yard of the house. If the builder wants to reorient the building to achieve a better design, then the builder should seek a variance. Future construction should not be based on erroneous precedent.

2. Judy Jensen (405 Lincoln Ave.) stated that she lived adjacent to the subject site and had suffered from the development discussed by Mr. Gross. She advised that a number of City officials had visited the built development and had promised that the gray areas in the Code would be corrected. Ms. Jensen stated that there are reasons why the Code requires specific, large front and rear setbacks. One reason is that a great deal of activity occurs in rear yards. The direction of stormwater runoff from roofs and from downspouts is also important to consider. The development to the east of her property drains onto her property, in spite of drainage ditches filled with gravel on those parcels, and water sits in her front yard frequently. She reported that the City Engineer had agreed that the drainage ditches should not have been permitted. Ms. Jensen stated that her taxes have increased while her landscaping has been washed out and her basement floods as a result of adjacent construction.

Ms. Jensen encouraged the City to review the penalties for removal of trees that were marked for preservation with a site's development. She stated that the developer of the lots to the east made

no effort to save any trees, as agreed, and instead made money from the milling of those trees when he only had to pay a \$500 penalty.

Ms. Jenson asked the Planning Commission to consider the direction of the pipestem driveway, in relation to adjacent developed properties; the direction of driveways for the new construction; and the mandatory fencing of properties to be developed if any of the new driveways are positioned in manner to permit headlights to shine into existing structures. She expressed her hope that the promises made previously would be kept and that interpretation errors would not be repeated.

Hearing no further response and having received no written comments, the Chair closed the item to the public.

Ms. Fauber reported that she had examined pipestem ordinances used in other jurisdictions; one Utah jurisdiction requires 'a minimum lot area 125% greater than this zoning district'. She calculated that this subdivision exceeds that requirement for both rear (pipestem) lots.

In response to Ms. Fauber's questions, Mr. Been advised that the orientation of the houses had not been finalized, because that determination is usually made with the grading plan preparation. It was likely that the house on Lot 6A might face towards the pipestem entrance at Lincoln Avenue, Lot 6B will probably face down the property line. The 15-foot side yard marked will be the side yard. The lots are nearly large enough to make four new lots, but he had decided to create only three lots for aesthetic reasons.

In response to Ms. Budetti's request, Ms. Friel agreed to provide a written decision on the Code requirements for the orientation of structures compared to potential building envelopes. She reiterated that the Planning Commission does not decide the orientation; the builder does. Ms. Friel reminded the Commission that the neighbors had an opportunity to see the house plans during the CBIRT review. Ms. Budetti noted that some lots on Lincoln Avenue are angled, making Code interpretation difficult.

In response to Ms. Budetti's inquiries, Ms. Jensen concurred that the recent development to the east of her property had been problematic. She suggested that Commissioners visit the area to understand how the orientation of private driveways can impact adjacent properties. Unfortunately, driveways proposed need not be depicted on the subdivision plat. Ms. Budetti noted that the area map in the staff report was outdated and requested a map reflecting the existing conditions in the next staff report.

In response to Ms. Rodgers's questions, Ms. Friel that neighbors are notified of the CBIRT review, not the internal grading plan review. The CBIRT review is a recently created opportunity for neighbors to see the grading plan and the stormwater control for a site to be developed. She agreed again to seek a written opinion from the City Attorney on the orientation of houses to be constructed.

Mr. Holran stated that the City is now seeing the results of the Green Gables subdivision. Using the plat proposed, he questioned from what point the front yard setback of Lot 6B should be

measured given the odd shape of Lot 6A. He requested a specific interpretation of that question prior to approval of this subdivision. Mr. Holran expressed his appreciation for Mr. Bean's comments concerning creating aesthetically pleasing lots, but these are not the last lots on Lincoln Avenue with subdivision potential so an interpretation is needed now. He inquired whether a special Lincoln Avenue overlay district could be created in which to use specific design requirements.

Mr. Bean advised that his engineer, Reed Dudley, had considered several lot configurations, and several discussions had been held with staff to clarify Code requirements. The Zoning Administrator had approved the lot configurations submitted. It is unlikely that the lot lines would be moved.

Ms. Sanders expressed her belief that the large lots could have been configured into a charming cluster of homes. She encouraged adjacent property owners to attend the CBIRT meeting and to use that opportunity to ask tough questions concerning topography, drainage, design, and grading. Ms. Sanders stated that it is the City's responsibility to prohibit water problems on existing lots as a result of new construction. She expressed her sympathy with Ms. Jensen's remarks concerning tree removal and stormwater detention bonds; if a developer fails to do agreed upon work, then the City cannot go onto private property to correct problems.

Ms. Budetti concurred with Ms. Sanders's comments. She expressed concern with Ms. Jensen's comments that the City had not taken action since the issues rose with the previous development abutting Ms. Jensen's property.

Ms. Friel stated that the previous development plan had been adhered to; there is a disagreement over what the Code requires and how the Code has been interpreted. She concurred that she had visited the previous development adjacent to Ms. Jensen, that she understands all of the comments made this evening, but that those issues are not within the Planning Commission's authority. Ms. Friel reiterated that this application was timed specifically for approval prior to any City Council action to amend the pipestem ordinance. This application meets all Code requirements, the Tree Commission reviewed the Preliminary Tree Survey, the developer is proposing large lots, and the Commission is requested to grant preliminary and final approval this evening, as the Council will vote on the ordinance amendment on 22 May.

In response to Mr. Holran's question, Ms. Friel expressed her understanding that the City Attorney had indicated that the application needed preliminary and final approval prior to any Council action. Mr. Fuller indicated that he had spoken with the City Attorney more recently and had been advised that preliminary approval would vest the application.

MOTION: Mr. Holran moved, and Ms. Sanders seconded, that the Planning Commission grant preliminary approval to SD06-0196, for resubdivision of the properties at 407 and 409 Lincoln Avenue, condition final approval on receiving an interpretation on the setbacks for Lot 6B and how the front setbacks are going to be interpreted against Lot 6A, and recommend that the final plat be corrected for the name of Ms. Jensen and not "Hensen".

Discussion:

In response to Ms. Budetti's questions, Mr. Fuller reported that the City Attorney had stated that the Commission's preliminary approval of this subdivision would 'grandfather' the application. Ms. Rodgers indicated that the applicant had stated that all staff had reviewed and approved all lot lines, however interpretation of those lot lines is often called into question. Therefore, the application should be continued contingent upon receipt of the interpretation; the applicant will be vested with preliminary approval this evening.

Ms. Gee inquired if the motion maker desired to continue the application to a date certain. Mr. Holran declined and stated that the Commission would be ready to act on the application upon the conditional approval being met.

Upon roll call vote, the motion passed unanimously.

C. 450 WEST BROAD STREET, INTERIM PARKING PLAN

Robert Young and Joe Wetzel, Jefferson 450 LLC, were present.

Ms. Friel reported that the applicant requested authorization to implement an interim parking plan, which would permit two new occupants at the subject site, a restaurant and a dry cleaner. The restaurant would be located in a space formerly occupied by a realty company and the dry cleaner would occupy space in the newly constructed portion of the building. The two uses proposed are more intense and require more parking than the uses assumed under the existing interim parking agreement, which is valid through the completion of construction on the adjacent Spectrum site (444 West Broad Street). The final site plan anticipated conversion of the first floor at 450 West Broad to retail uses and reflected sharing parking for the two buildings.

There are 100 parking spaces available during construction: 35 spaces are provided in front of the building and are intended for Panera customers; 30 spaces are provided in a gravel lot off Park Avenue; and the remaining spaces are provided off-site at 706 West Broad Street.

Staff and the applicant worked to reevaluate the interim parking for the uses now anticipated during the interim construction period and determined that adequate parking exists for the new uses. The 65-onsite parking spaces can capture all retail, service, and restaurant uses; office tenants primarily use the off-site parking spaces. Representatives of both parties have agreed to and signed the interim parking amendment. The parking requirements will change after build out, which will require a site plan amendment and adjacent property owner notification.

Mr. Young reported that the lease had expired for a previous tenant, a restaurant owner has signed a lease, and the interim shared parking plan is anticipated to work for all customers. The Planning Commission is requested to authorize the interim parking plan as parking requirements are exceeded both onsite and off-site.

In response to Commissioners's questions, Mr. Wetzel confirmed that the Panera parking lot has signage directing patrons to the gravel lot. Ms. Friel noted that the dumpsters and the trailers on

the gravel lot had been the subject of an ongoing conversation. Now that Waterford (The Spectrum site owner) has signed the shared parking agreement, greater compliance is anticipated. Mr. Young reported that numerous discussions had been held with Waterford concerning the number of and the location of construction trailers. Apparently, Waterford has ongoing problems with its building contractor, particularly with construction workers parking on the streets surrounding the site rather than parking off-site as agreed previously. He indicated that he has pressed hard, with staff's help, for Waterford to comply with previous agreements.

Mr. Holran suggested that the City use its authority to stop work until Waterford complies with agreements and regulations. Mr. Young indicated that he had stopped work repeatedly with certified letters to Waterford.

Mr. Burnett expressed his belief that Waterford had given the City a song and dance about creating a wonderful, viable, workable street during site plan approval. Now, Waterford is gumming up the streets in terms of on-street parking. He supported Mr. Holran's suggestion to issue stop work orders, as necessary. Mr. Burnett indicated that he was fed up with Waterford's actions and excuses.

Ms. Sanders inquired if the construction trailers had been inspected to determine if they were used for housing workers. She suggested that the City parking enforcement officer spend time in that area on a regular basis. Mr. Young stated that the trailers contain offices and conference rooms. Ms. Friel advised that there are no on-street parking time limits; the Citywide parking plan calls for two-hour parking in this area. The City has put the applicant on notice about on street parking and has stopped work previously for erosion and sediment issues. Staff met with Waterford last week and discussed several short and long term issues. Ms. Friel noted that the applicants must sign a more formal shared parking agreement; the City Attorney can review the new agreement to ensure that the City can enforce it.

In response to Ms. Rodgers's questions, Mr. Young indicated that approximately 96 parking spaces are available in the 706 West Broad Street lot; that approximately 77 spaces are restricted for 450 West Broad Street tenants; and that he was willing to remove the signs that had been installed for the temporary Metro parking so that patrons of 450 West Broad Street would know that those spaces are available. He noted that the next issue for the Planning Commission's consideration is for a long-term parking agreement; another issue anticipated is occupancy of the parking garage, but that will not come before the Commission.

MOTION: Mr. Burnett moved, and Ms. Budetti seconded, that the Planning Commission authorize the interim parking plan for 450 West Broad Street, as presented.

Upon roll call vote, the motion passed unanimously.

8. OTHER BUSINESS: None

9. MINUTES FOR APPROVAL: The Minutes of 1 May 2006 were referred to staff for editing and resubmitting for approval at the Commission's next meeting. The draft minutes were prepared by a substitute and the record is unclear in many instances.

10. ADJOURNMENT:

Mr. Holran moved, and Ms. Fauber seconded, to adjourn. The motion passed by voice vote and the meeting adjourned at 9:45 PM. Immediately following the meeting, the Planning Commission met in a worksession to discuss Ordinance T06-05, Pipestems. Immediately afterward, the ZORS met in a worksession to discuss Zoning Ordinance Amendments (Impervious Surface and Building Coverage/Landscaping Tree Ordinance) for recommendation to the City Council for a worksession.

Respectfully Submitted,

Noted and Approved:

Debra L. Gee
Recording Secretary

Elizabeth R. Friel, AICP
Planning Director

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